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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

HAZEL ELIZABETH SCOTT, Pro Se	)	
Petitioner,	)	Civil Action No:
v.	)	
STATE OF SOUTH CAROLINA,	)	2:17-CV-368-RMG-BM
The STATE DEPARTMENT OF HEALTH	)	
AND ENIVRONMENTAL CONTROL,	)	
(And All Persons Acting On Its Behalf	)	
Respondent(s).	)	

PETITION FOR AN EMERGENCY TEMPORARY RESTRAINING ORDER
AND
PRELIMINARY INJUNCTION

I, the undersigned Movant, being duly sworn according to law, do hereby attest to the truth of the allegations made in the underlying petition moves the Court for entry of an Emergency Temporary Restraining Order and Preliminary Injunction be issued with notice to the Respondent and all persons acting on its behalf.

1. Notice to the Respondent should not be given for the following reason(s):

Justice requires, as a result of and based upon a wrongful discharge of hazardous chemicals into soil and groundwater sources in the immediate vicinity, whereas Petitioner have at no time given their consent to the pollution of the groundwater to her property, and such pollution is an unlawful entry upon Petitioner land. As a direct and proximate result of Respondent(s), continuation of the false representations, the continuing wrong, destroying, and disposing evidence; Petitioner has suffered personal injury and real property damages and will continue to suffer if an Emergency Temporary Restraining Order and Preliminary Injunction is not provided on an emergency basis in this action. Also, justice requires restraining the Respondent(s) from permitting his/her previous wrongful acts, activities resulting, or which may result from an offensive and harmful contact with hazardous chemicals.

Petitioner property has been contaminated by Brownfield; the State of South Carolina, not accepting responsibility for clean up, but sending people in the past to monitor property and destroy evidence (trespassing) without prior approval or notification in the year of 2014 and 2015.

2. I request the following specific relief:

Petitioner contends, an Emergency Temporary Restraining Order and Preliminary Injunction would deter inadvertent future violations by others against Petitioner, in this action which she is in entitled, and any part of the relief consist in restraint, the continuance patterns by others (signally and collectively) to cover-up wrongdoings, which are unfair and wrongful. Though the activities of each party to this action include protecting the health of the public and the environment; health issues are critical, but also the importance of living in healthy communities, none the less the manner in which it abandoned the leaking Underground Storage Tank System (USTS) stored on the former gas station and migrated at other locations, the old Davison Road community.

In the interests of Justice and the safety of my family and residents of community, I'm requesting an urgent intervention regarding a leak developed in an underground storage tanks (UST) that supplied the old service station with gasoline resulting in the contamination of their property, located in Charleston County, Ravenel, South Carolina.

Petitioner hereby petitions this Honorable Court for review of the recent determination by the State of South Carolina, Department of Health and Environmental Control ("DHEC" or "the Agency ") and its Underground Storage Tank Management Division ("the Division”) received a call and found a parcel of property located in Ravenel, Charleston County, South Carolina had released petroleum product from an Underground Storage Tank System ("the USTS"). The property identified as Ancrum Facility ("the facility"") is located at 4308 Davison Road, Hollywood Charleston County, South Carolina. The former facility previously maintained one 1,000 gallon gasoline UST and one 550 gallon gasoline UST. This Underground Storage Tank System (USTS) were operated and used to store and supply gasoline in the past.

This request is so important because I am asking this Honorable Court to recognize that trespass and nuisances can be ongoing. Also recognizing, a gasoline spill, no matter how small, is a serious problem and a safety risk not only to the Petitioner but to the residents of the old Davison Road community and the environment. I am sure this Honorable Court recognizes the following environmental issues; spills, leaks or improper disposal of gasoline can cause contamination of soil, groundwater, surface water and air; leaking underground storage tanks or pipelines also can cause gasoline to enter surrounding soil and groundwater.

I am petitioning this Honorable Court in regard to the unauthorized discharged accident that occurred in which records reflect that DHEC agent Mr. Joel P. Padgett (Padgett) is in complete control over the environmental conditions, a petroleum contaminant plume consistent with gasoline discharges and liability associated with real property, Padgett in complete control over the environmental conditions and liability associated with the "Ancrum" facility and real property of Petitioner.

3. I further attest that unless relief is granted on an emergency basis, the following immediate and irreparable harm will result:

I am very afraid of my safety and as a whistleblower, I have voiced my concerns to the people and different organizations and Congressmen and Senators in this State, about the actions, inactions and the environmental conditions that plagued our community, the conducts and actions is grossly unjust to myself, my family and the community, I am urging you to please respond quickly to my plea on behalf of the citizens of South Carolina and the United States of America.

However, there are a few things this Honorable Court can do of importance; please make an effort to address some of the complex problems associated with gasoline spill and the painful story of Petitioner injuries, as a result of an unlawful discharging petroleum into the soil and groundwater of the innocent landowners, adjacent property in the old Davison Road Community. Petitioner and on behalf of her family (alive and dead) have already expressed their strong dissatisfaction with this crime to the respectful agencies.

SCDHEC knew or should have known of the inadequacies of the in-active gas station and its tanks to contain the hazardous chemicals.

That any part of the relief consists in - when it appears it is too late every member of Petitioner's family has in recent years develop serious health problems, alive and dead.

The issues in this case depict the workings of Respondents working within their own agenda, both separately and together, independent, yet cooperatively. The primary goal of each Respondent involves violation of certain laws, Statues, State, and Federal Regulation related to and arising out of:

The release of petroleum product from an underground storage tank, whereas the State, South Carolina Department of Health and Environmental Control (SCDHEC) had full control over the property on which the discharged occurred "**soil and groundwater contamination**" and the adjacent property located at 4236 Davison Road, Ravenel in Charleston County (tax map number 244-00-00-047).

The property identified as Ancrum Facility ("the facility"") is located at 4308 Davison Road, Hollywood Charleston County, South Carolina. The facility previously maintained one 1,000 gallon gasoline UST and one 550 gallon gasoline UST. This Underground Storage Tank System (USTS) were operated and used to store and supply gasoline.

Exposure to the toxic chemicals Benzene, Toluene, Xylene (BTEX), MTBE, Naphthalene, DCA, EDB and other chemicals of concerns (CoCs); the Scotts had been harmed, by flooding as a result of a new extensive land development and subdivisions construction causes flooding during any ordinary heavy rainfall, creating a dangerous condition in an area already plagued by exposure to toxic chemicals Benzene, Toluene, Xylene (BTEX), MTBE, Naphthalene, DCA, EDB and other chemicals of concerns (CoCs).

Petitioner contends harmed as a result of decisions made by the City officials of Charleston and County of Charleston to approve, and permit application for construction and maintenance new land development, public service utility line, and subdivision in a predominantly African-American community residents affected by the release. Also, by SCDHEC to allow permitting permits for construction and maintenance to allow the new land development construction.

THE CRITICAL PART

Property owners continuous attempts to obtain a soil and groundwater testing, that the agency had failed to show good cause for denying a soil and groundwater testing of the Scotts well. In addition, in arriving at its decision, the agency shall not consider any reasons for action other than those specified in its letter of response, none "the mere facts the agency gave no reasons, any it may come up with now after the fact, Petitioner continuous attempts to obtain information are inherently in non-compliance with statutory provisions.

Those officials allowing toxic chemicals to be discharged at the former gas station "Ancrum" facility and at other locations in the vicinity, including at "Petitioner" property on Davison Road in Charleston County, resulting in Petitioner exposure to contaminated groundwater (the "Exposure Period").

This action also arises, as a result of the failure to warn, failure to exercise due care, and failure to follow the administrative policy of the Underground Storage Tank (UST) System Regulatory Compliance and Management, documented with federal UST program, in addition to State UST regulation program and with federal and state requirements by officials State, South Carolina Department of Health and Environmental Control ("DHEC" or "the Department", City of Charleston and County of Charleston.

As a result of officials' unlawful acts, Petitioner has suffered, and will suffer in the future, property damage, personal injury, and death. But rather than take steps to warn and protect humans and the environment, government officials did just the opposite.

False Entry - on the property of the Petitioner, based on the circumstances including - decision having already been summarily made in advance without giving timely notice, right to reply, right to have reply considered. The Right-of-Entry letter to the Scotts (Waring) issued on January 23, 2009, did not document the true reason and the need for entry to real property of Petitioner.

South Carolina DHEC, in the decision by those Officials not to notify Scotts of the known risk of exposure to toxic chemicals Benzene, Toluene, Xylene (BTEX), MTBE, Naphthalene, DCA, EDB and other chemicals of concerns (CoCs) and while promptly approving and permitting new land development, Petitioner alleges in violation of Statutory laws, and such provisions thereof.

SCDHEC continuing history of violations - dispatching companies to enter another person's property without permission of the owner, a wrong, SCDHEC have in the past has interfered with an owner use of the property by failing to secure these purposes and the enforcement of the provisions of environmental compliance, enforcement protection. Now, various company is trespassing without permission, whereas Petitioner requested, in writing that the trespasser not to go on the property without someone being there. Petitioner, unaware without knowledge of the time and the day, but was notified in writing, entry without Petitioner knowledge, per the request of SCDHEC, actions that are wrongful.

Subsequently, SCDHEC, who is in complete control over activities at the site and the Petitioner property, had mislead concealed and suppressed evidence concerning the activities surrounding real property and in the immediate vicinity. Petitioner contends those officers, agents, employees and all those in active concert or in participation conducted their activities and practices, unlawful, disregards to Petitioner and the Old Davison Road community residents' health and welfare.

Unlawful, "Threats to public health and the environment, schemes to mislead, avoid and injure the property (real and Personal) interest of the Petitioner and residents of the Old Davison Road Community;

False Entry - on the property of the Petitioner, based on the circumstances including - decision having already been summarily made in advance without giving timely notice, right to reply, right to have reply considered. The Right-of-Entry letter, issued on January 23, 2009, did not document the true reason, the need for entry. Petitioner contends, "DHEC assessment and initiated remediation of the plume contaminants that had escaped from the storage tanks and migrate to the property of Petitioner and other locations in the community.

On April 08, 2013, the division executed its Release Status Update ("RSU") letter, disclosing and notifying property-owners (the Scotts) of the environmental conditions and liability associated with the reference facility "and your property"("the Scotts") located at 4236 Davison Road, designated on the Charleston County Tax Map as number 244-00-00-047.

The RSU letter states, on March 12, 2008, the division received a report that documented a release of petroleum products at the facility and the division assessed the release on behalf of Publix Oil, the owner-operator of record. The site assessment conducted from 2008 to 2009 confirmed and outlined petroleum contamination in soil and groundwater at the facility and since 2009, the division has been directing aggressive fluid and vapor recovery and chemical injection in the source area of the release to reduce concentrations of petroleum chemicals of concern. Also, the division April 08, 2013 RSU letter disclosed to property-owners that ground-water sampling will be directed in the near future to obtain current data and that two Monitoring Wells ("MWs") have been installed on your (the Scotts) property, MW-10 and MW-11.. That the MWs were lasted sampled on April 22, 2009. That the sampling results show that all Chemicals of Concern ("CoCs") are below detection levels and the wells were not located or were inaccessible during subsequent sampling events conducted in 2010 and 2011.

Records on activities reported - What happen after MECI sampling activities reported wells MW-10R and MW-11 were not located? MECI site activity summary report, under MW-10R in the comments section states not located; well destroyed and under MW-11 in the comments section, states not located; flooded; well in swampy area - based on that information/record, when did MECI cease sampling the wells? If, I am right wells MW-10R and MW-11 location is on the property belonging to Petitioner.

Any records on the consideration and adverse effects of the entire site, concerns about water that is not soaking in the ground, stagnant water that is considered a very serious environmental hazard, there is no way for the flood water to go.

Also, I am concern about the ongoing development in the area, the lengthy process that is contributing to the problems(s) in the area. Installation of a new pipe network, (water main and sewer lines) in the area and poor runoff, which is causing the water to flow off the highway in ditch(s) and on property of Petitioner.

The circumstances surrounding the investigation and assessment:

Those property owners were not notified that their property contained a petroleum contaminant Plume consistent with gasoline.

- Without disclosure of the foregoing material facts and information, the agency prepared and signed letter (controlling document) produced and submitted by its agent Padgett, was inherently misleading and deceptive.

Additionally, the state agency, intentionally failed to address the current conditions in reference to the Scotts property; **whether** the **site (Petitioner property)** is open, **closed**, and the need to conduct (how much longer) environmental sampling in the near future to obtain current data.

Property owner's continuous attempts to obtain information:

Ongoing assessments, monitoring, remediation actions to properly close site (Petitioner Property) that is contributing to personal injury and real property damages resulting from a release of petroleum products from the tank systems leaking and abandoned .

- Without disclosure of the foregoing material facts and information, Ms. Scott disputes "the tank systems abandoned by removal on June 12, 2012".

That the agency letters and records reveals conflicting "abandoned by removal date", a misrepresentation of a material fact, the property had been used as a gas station and had an inactive unregulated on-site gas station tank system at the time of the of petroleum contamination. SCDHEC signed letter (controlling document) produced and submitted by its agent Padgett, is inherently misleading and deceptive.

April 2013, Ms. Scott unaware that a discharge had occurred, requested information relating to the following -

Reportable quantity (released into the environment) at the reference site; the area(s) affected by the release; any or all information, dates about chemical release and time of release; any emergency notification to the public (residents) in the area affected; type of product spilled, if product hazardous; dates reported to the Regulatory Agencies, if determined that the spill required reporting; description of the spill circumstances; what type of surface, if any did spill occur; if the spill was an environmental or health risk; was evacuation necessary; was the spill satisfactorily cleanup; the need for further action; and information of corrective action.

"Tanks abandoned by removal ground in June of 1993?

Padgett states – 1) on March 12, 2008, the Division received a report that documented a release of petroleum products at the Ancrum facility; 2) site assessment conducted from 2008 to 2009 confirmed and outlined petroleum contamination in soil and groundwater at the facility; 3) since 2009, the Division has directing aggressive fluid and vapor recovery and chemical injection in the source area of the release to reduce concentrations of petroleum chemicals of concern.

Also, Padgett states - division records show that two monitoring wells have been installed on "your" property, reported and confirmed a release of petroleum product from these tanks in March of 2008".

- Without disclosure of the foregoing material facts and information, the agency, DHEC environmental consultant contractor Midlands Environmental Consultants, Inc. (MECI) agents (Mr. Clark Baer and William McClary, P.G.) prepared and signed Right-of-Entry letter (controlling document) produced and submitted on January 23, 2009, is inherently misleading and deceptive.

  Fact(s): the above did not occur in advance, a pre-decision action that property owners did not have a chance of successfully contesting the above action before, not after, the action is taken, here, the agency and MECI, as its own documentation shows, did not do this. Indeed, the companies trespass without permission of the property owners, causes damages (personal injury and real property) as a result of interfering with property owners use of the property.

Ms. Scott request to this Honorable Court to consider the following -

The community impacted. Residents of the Old Davison Road community in Charleston County, State of South Carolina, Davison Road not until January 2009, almost one (1) year later.

The Adverse Effects: to new land development construction project, buildings, plants, etc., site observations of actions of more and more rainwater harvesting, flowing of water (flooding) that will carry chemicals to where it drains through fields. Also, the ongoing development in the area, the lengthy process that is contributing to the problems(s) in the area. Installation of a new pipe network (water main and sewer lines) in the area and poor runoff, which is causing the water to flow off the highway in ditch(s) and on property(s).

The quantity, the areas affected by the release. Date and time of emergency notification or health concerns addressed to resident (such as health risk).

Any and all circumstances to the description of the spill, type of surface, if any did spill. Was the spill satisfactorily cleaned up, if not the need for further action (Petitioner property), and to provide information on corrective action?

Environmental disasters, eventually makes its way into the water through runoff the surrounding environment, breathing gasoline vapors, drinking water contaminated with gasoline, or soil or water contaminated with gasoline.

The truth, information is not being provided by DHEC, County and State offices in reference to the ongoing (historical) assessment. I am asking that they refrain from providing misleading information. I am unable to cope with the stress due to the inconsiderate actions from government officials. I am concern and understand the recovery effort, but what I don't understand the focus right now, is not the community and not providing the information I am in need of, so I can return to my home without worries.

Hazel E. Scott

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Sworn to and subscribed before me this 7th of February, 2017

____
Clerk of Court/Notary Public

____
Date